

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALTON MICHAEL LOOSIER,

Petitioner,

V.

NATHANIEL QUARTERMAN, Director
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

❧ ❧

Civil Action No. **3:07-CV-299-L**

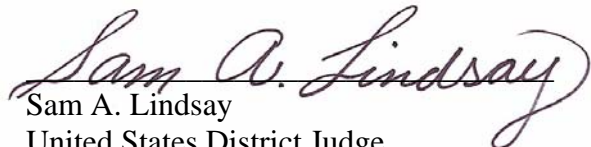
ORDER

This is a habeas case brought under 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b), and an order of the court in implementation thereof, this action was referred to the United States magistrate judge for proposed findings and recommendation. On April 18, 2007, the Findings and Recommendation of the United States Magistrate Judge (“Report”) were filed, and Petitioner filed his objections May 2, 2007.

After making an independent review of the pleadings, file and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct in recommending dismissal of the § 2254 petition as time-barred and not subject to statutory or equitable tolling. Petitioner states that the time for filing his habeas should be tolled because of mental illness, and he objects to the magistrate judge's Report because the magistrate judge failed to investigate or search for his juvenile, school and family medical records for evidence of his incapacity. Petitioner's objections are **overruled**. As the Report noted, Petitioner waited more than five years after the AEDPA limitations period expired

before seeking habeas relief in state and federal court, and has presented the court with no evidence of his alleged mental illness.* The court is under no obligation or duty to investigate his medical records, nor would any of the records cited by the Petitioner evidence his incompetence during the time period he wishes the court to toll. As Petitioner's objections are **overruled**, the findings and conclusions are **accepted** as those of the court. Accordingly, Petitioner's application for the writ of habeas corpus is **denied**. This case is hereby **dismissed with prejudice** as time-barred.

It is so ordered this 31st day of May, 2007.


Sam A. Lindsay
United States District Judge

*In fact, as the Report noted, Petitioner's filing of three separate state applications for post-conviction relief prior to filing the instant federal habeas petition undermines his allegation of incompetence.